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UNEMPLOYMENT INSURANCE INFORMATION FOR FISHERMEN AND ALLIED WORKERS[1/]

PACIFIC COAST STATES
WASHINGTON
OREGON
CALIFORNIA

WASHINGTON

Source: Unemployment Compensation Act (original act effective March 16, 1937; latest amendment effective July 1, 1945).

Fishermen and Allied Workers Covered.--Fishermen are not covered under the Washington Compensation Act if they are working outside the three mile limit on oceanic waters, while land or shore workers are included under the provisions of the law according to a statement dated April 23, 1945, by the Commissioner, State of Washington, Office of Unemployment Compensation and Placement, which is quoted in part as follows:

Note: This information is a digest of Unemployment Insurance Laws (as of September 1, 1945) with specific application to fishermen and allied workers in the States of Washington, Oregon, and California. This presentation is necessarily not complete; it is an interpretation by the Fish and Wildlife Service of the existing laws, and is subject to correction by courts or administrative agencies.

1/ Compiled by the Economics and Cooperative Marketing Section, Division of Commercial Fisheries.

" . . . . Your assumption that fishermen are not covered under the Washington Unemployment Compensation Act to the extent that such services fall within . . . . our 1943 law, is correct . . . . Section 18 of our 1945 law, which becomes effective July 1, 1945, provides:

'. . . . the term "employment" shall apply to an individual's entire service performed as an officer or member of the crew of any vessel or other craft having its home port in Washington or operated by a Washington employing unit, and primarily engaged in navigation or otherwise primarily used on the navigable tide water or tide water connected harbors, sounds, inlets, bays, lakes or rivers of the State, or on land-locked inland waters of the State, or on the strait of Juan de Fuca, or the connecting inland waters south of the Fiftieth Parallel of latitude in British Columbia, or on the Columbia river or tributary navigable rivers . . . . '

"Our administrative thinking with respect to this quoted provision is that services performed on vessels 'primarily used' outside the three mile limit on oceanic waters will be exempt under our Act subsequent to July 1, 1945, and all other maritime services performed for Washington employers will be covered.

"Services in connection with oyster growing and harvesting are considered agricultural labor in this State and are exempt under the provisions of our 1943 and 1945 laws."

Employment Not Covered.--Services of: (a) casual labor not in the course of the employer's trade or business; (b) officer or member of the crew of any vessel primarily engaged in interstate or foreign commerce navigating coastwise or on the high seas; (c) family services; (d) fishermen's cooperatives if performed by students; or if remuneration paid to any individual in a calendar quarter does not exceed $45, that is, the exemption applies to services rendered in any calendar quarter by any individual if the remuneration does not exceed $45 in said quarter.

Employers Covered.--Those having one or more employees at any time.

Eligibility of Employees

(1) Minimum amount of earnings necessary - $300 in the calendar year preceding the benefit year (a benefit year begins July 1, and ends the following June 30).
(2) Waiting period.- one week of full unemployment before receiving benefit

Payments

(1) Maximum and minimum weekly benefit payments - $25 is the maximum amount that an applicant may receive weekly and $10 is the minimum amount that an applicant may receive weekly as unemployment benefits, less wages, if any, in excess of $5.
(2) Maximum number of weeks payable - 26 weeks.

Contributions

(1) Employers contribute 2.7% of wages payable (not in excess of $3000) to each employee. (On and after January 1, 1946, contributions are to be calculated on "wages paid" instead of "wages payable".)
(2) Employees contribute no part of wages toward unemployment benefits.

Disqualifications for Benefits.--Applicants are disqualified in the following cases:

(1) Leaving Work Voluntarily.--For the calendar week in which he has left work voluntarily without good cause, if so found by the Commissioner, and for a period following immediately thereafter of not more than four weeks as the Commissioner shall determine.

(2) Discharge for Misconduct.--For the calendar week in which he has been discharged or suspended for misconduct connected with his work, if so found by the Commissioner, and for not more than the four weeks which immediately follow such week as determined by the Commissioner in each case according to the seriousness of the misconduct.

(3) Making False Statement.--For the calendar week in which he has wilfully made a false statement or representation or wilfully failed to report a material fact to obtain any benefits under the provisions of this act and for not more than the twenty-six next following weeks as determined by the Commissioner according to the circumstances in each case.

(4) Failure to Apply for or to Accept Available Suitable Work.--If the Commissioner finds that he has failed without good cause, either to apply for available, suitable work when so directed by the employment office or the Commissioner, or to accept suitable work when offered him, or to return to his customary self-employment, if any, when so directed by the Commissioner. Such disqualification shall continue for the week in which such failure occurred and for not more than the four weeks which immediately follow such week as determined by the Commissioner according to the circumstances in each case.

In determining whether or not any such work is suitable for an individual or whether or not an individual has left work voluntarily without good cause, the Commissioner shall consider the following: (a) degree of risk involved to his health, safety, and morals; (b) physical fitness and prior training; (c) experience and prior earnings; (d) length of unemployment and prospects for securing local work in his customary occupation; (e) distance of the available work from his residence; (f) such other factors as the Commissioner may consider pertinent including State and national emergencies.

Notwithstanding any other provisions of this act, no work shall be considered suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (a) if the position offered is vacant due directly to a strike, lockout, or other labor dispute; (b) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (c) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(5) Labor Dispute.--For any week with respect to which the Commissioner finds that his unemployment is due to a stoppage of work, which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed.

This disqualification shall not apply if it is shown to the satisfaction of the Commissioner that: (a) he is not participating in, or financing, or directly interested in the labor dispute which caused the stoppage

of work; (b) he does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in, or financing, or directly interested in the dispute.

If in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for this purpose, be considered to be a separate factory, establishment, or other premises.

(6) Pregnancy.--If a woman quits or is required to terminate her employment due to pregnancy she is presumed not able to work and unavailable for work during such period of pregnancy. Such presumption may be set aside by medical evidence acceptable to the Commissioner.

(7) Seasonal Unemployment.--For any period outside of the season established for the seasonal employment performed by him.

Where to Apply for Benefits.--Register and apply at the local United States Employment Service Office immediately upon becoming unemployed.

OREGON

Source: Oregon Unemployment Compensation Law (original act effective November 1 1935; latest amendment effective June 16, 1945).

Fishermen and Allied Workers Covered.--These workers are covered in this State. Employment in fish canning and packing, considered a seasonal industry, is included in this coverage. Benefits under special provisions for seasonal workers are not limited to unemployment in the active season. A statement of April 18, 1945, signed by the Administrator, Oregon Unemployment Compensation Commission, is quoted in part as follows:

" . . . . the Oregon Unemployment law still covers land fishermen and fish canning, packing, and selling operations. The land fishermen applies to the seiners and the coverage numbers only a few firms during most of the year, but runs as high as 200 employees at certain seasons. The canning, packing, and selling operations, however, affect several thousand employees of about 20-25 large firms. The Sec. 127-707 . . . . was amended by the 1941 Legislature to include only such firms as have regular seasonal shutdowns over the same period of twelve weeks or more for a period of at least four years." **

Employment Not Covered.--Services of: (a) casual labor not in the course of the employer's trade or business; (b) an officer or member of the crew of any seagoing vessel primarily engaged in interstate or foreign, open or high seas navigation, except on any vessel or other craft having its home port in Oregon and primarily engaged in navigation of the Columbia and Willamette Rivers and their tributaries to the extent that Oregon has

** This section refers to Benefits in Seasonal and Irregular Employment.

jurisdiction; (c) an officer or member of the crew of any fishing vessel or any vessel primarily engaged in the transportation of fish or fishery products; (d) family services.

Employers Covered.--Employer of four or more in any one day in any calendar quarter with payroll of $500 or more.

Eligibility of Employees

(1) Minimum amount of earnings necessary - $200 in the period from October 1 to September 30 immediately preceding the calendar year during which the applicant's claim is filed.

(2) Waiting period - one week of total unemployment before receiving benefits

Payments

(1) Maximum and minimum weekly benefit payments - $18 is the maximum amount that the applicant may receive weekly, and $10 is the minimum weekly amount that may be received as unemployment benefits, less wages, if any, in excess of $2.

(2) Maximum number of weeks payable.--20 weeks.

Contributions

(1) Employers contribute from 1% to 4% of wages payable (not in excess of $3000) to each employee until the end of 1945. They contribute from 0.5% to 2.7% on and after January 1, 1946. Rates are determined by the Commission according to employment records.

(2) Employees contribute no part of their earnings toward unemployment compensation benefits.

Disqualifications for Benefits.--Applicants are disqualified in the following cases:

(1) Leaving Work Voluntarily.--For the calendar week in which he has left work voluntarily without good cause, if so found by the Commission and for all subsequent weeks until the applicant has earned at least $50 in subsequent bona fide employment in two separate calendar weeks. The same provision will apply to an applicant who voluntarily quits to get married.

(2) Discharge for Misconduct.--For the calendar week in which he has been discharged for misconduct connected with his work, if so found by the Commission, and for all subsequent weeks until the applicant has earned at least $50 in subsequent bona fide employment in two separate calendar weeks.

(3) Failure to Apply for or to Accept Available Suitable Work.--If the Commission finds that he has failed, without good cause, either to apply for available suitable work when so directed by the employment office or the Commission, or to accept suitable work when offered him, or to return to his customary self-employment, if any, when so directed by the Commission. Such disqualification shall continue for all subsequent weeks until the applicant has earned at least $50 in subsequent bona fide employment in two separate calendar weeks.

In determining whether or not any work is suitable for an individual, the Commission shall consider, among other factors, the following: (a) degree of risk involved to his health, safety, and morals; (b) his physical fitness and prior training; (c) experience and prior earnings;

(d) length of unemployment and prospects for securing local work in his customary occupation; (e) distance of the available work from his residence.

Notwithstanding any other provisions of this Act, no work shall be deemed suitable and benefits shall not be denied under this Act to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (a) if the position offered is vacant due directly to a strike, lockout, or other labor dispute; (b) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (c) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(4) Labor Dispute.--For any week with respect to which the Commission finds that his unemployment is due to a labor dispute which is in active progress at the factory, establishment, or other premises at which he is or was last employed; provided, that this subsection shall not apply if it is shown to the satisfaction of the Commission that: (a) he is not participating in, or financing, or directly interested in the labor dispute which caused his unemployment; (b) he does not belong to a grade or class of workers of which, immediately before the commencement of the labor dispute, there were members employed at the premises at which the labor dispute occurs, any of whom are participating in, or financing, or directly interested in the dispute. If in any case separate branches of work which are commonly conducted as separate business in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment, or other premises.

(5) Receipt of Other Compensation.--For any week with respect to which he is receiving or has received compensation in the form of: (a) wages instead of notice or as a dismissal or separation allowance. If the remuneration received is less than the benefits which would otherwise be due under this Act, he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration. (b) for any week with respect to which or a part of which he has received unemployment benefits under an unemployment compensation law of another State or of the United States. If the appropriate agency of such other State or of the United States finally determines that he is not entitled to such unemployment benefits, this disqualification shall not apply.

(6) False Statement.--For a period not to exceed 26 weeks whenever the Commission finds that the applicant has wilfully made a false statement or representation, or wilfully failed to report a material fact to obtain any benefits under this Act. The length of such disqualification period, the time it shall begin, and whether or not it may be cancelled shall be determined by the Commission.

(7) Pregnancy.--An applicant required to terminate her employment because of pregnancy is ineligible for benefits until she has subsequently earned at least $50 in subsequent bona fide employment in two separate calendar weeks.

Where to Apply for Benefits.--Register at the local United States Employment Office immediately upon becoming unemployed.

CALIFORNIA

Source: California Unemployment Insurance Act (original act effective August 14, 1935; latest amendment effective September 15, 1945).

Fishermen and Allied Workers Covered.--These workers are covered under the California Unemployment Insurance Act. Seasonal workers are also included in this coverage. This information is based on a statement of January 8, 1945, signed by the Chairman, California Employment Stabilization Commission, quoted in part as follows:

"Prior to July 1, 1943, officers and members of the crew of vessels operating on navigable waters of United States were by interpretation of this Department held to be exempt from the provisions of the Act as maritime services under Section 7(c) thereof. On the basis of the decisions in Standard Dredging Corporation v. Murphy and International Elevating Company vs. Murphy, 63 S. Ct. 1067 (1943), however, this interpretation was reversed as of July 1, 1943, and since that date the taxing provisions of the Act are applicable to such individuals and they are eligible for benefits to the same extent as individuals engaged in any other employment covered by the Act."

Employment Not Covered.--Services of: (a) casual labor not in the course of the employer's trade or business; (b) family services; (c) fishermen's cooperative organizations if performed by students; if wages in any calendar quarter do not exceed $45.

Employers Covered.--Number of employees necessary - four or more in any twenty weeks in current or preceding calendar year or four or more on any one day after February 1, 1945, if the total payroll during any calendar-year quarter exceeds $3000; effective January 1, 1946, one or more on any day in current or preceding calendar year, if wages of more than $100 were paid in any calendar-year quarter.

Eligibility of Employees

(1) Minimum amount of earnings necessary - $300 during the first four out of the last five completed calendar-year quarters.
(2) Waiting period - one week of full unemployment before receiving benefits.

Payments

(1) Maximum and minimum weekly benefit payments - $20 is the maximum amount that the applicant may receive weekly, and $10 is the minimum weekly amount that may be received as unemployment benefits.
(2) Maximum number of weeks payable - maximum amount of benefits that an applicant may receive is 23-2/5 times his weekly benefit amount.

Contributions

(1) Employers contribute from 1.0% to 2.7% of wages paid (not in excess of $3000) to each employee.
(2) Employees contribute 1.0% of wages earned that are less than $3000.

Disqualifications for Benefits.--Applicants are disqualified in the following cases:

(1) Leaving Work Voluntarily.--Applicant is disqualified for the week in which he leaves work voluntarily without good cause and for not more than the four weeks immediately following such week.

(2) Discharge for Misconduct.--Applicant is disqualified for any week in which he has been discharged for misconduct connected with his most recent employment and for not more than the four weeks immediately following such week.

An individual shall be presumed to have been discharged for reasons other than misconduct in connection with his work and not to have voluntarily left has work without good cause unless his employer shall have given written notice to the contrary to the Commission within five days after termination of service, setting forth facts as are necessary to support his claims.

(3) False Statement.--Applicant is disqualified for the week in which he ha wilfully made a false statement or failed to report an important fact to obtain any benefits and for the next four following weeks.

(4) Trade Dispute.--Applicant is not eligible for benefits for unemployment if he has left his work because of a trade dispute and for that length of time in which he continues out of work because the trade dispute is continuing in his place of business.

(5) Refusal to Apply for or to Accept Suitable Work.--Applicant is disquali fied for the week in which he has refused to accept suitable employment without good cause when offered to him or failed to apply for suitable employment when notified by the local Public Employment Office and for the four weeks immediately following such week.

Suitable employment means work in the applicant's usual occupation or for which he is reasonably fitted. In determining whether the work is work for which he is reasonably fitted, a Commission shall consider the following: (a) degree of risk involved to his health, safety, and morals; (b) his physical fitness and training; (c) his experience and prior earnings; (d) his length of unemployment and prospects for securi local work in his customary occupation; (e) distance of the available work from his residence.

In any case, no work or employment shall be deemed suitable and benefi shall not be denied to an otherwise eligible and qualified applicant for refusing to accept new work under the following conditions: (a) i the position offered is vacant due directly to a strike, lockout, or other labor dispute; (b) if the wages, hours, or other working conditi offered are substantially less favorable than those prevailing for similar work in the area; (c) if as a condition of being employed the applicant would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(6) Receipt of Other Compensation.--An applicant shall not be eligible for benefits on account of unemployment for any week with respect to which or a part of which he has received or is seeking unemployment benefits under any other State or Federal law. Veterans shall not be eligible for benefits in any weeks for which they receive Federal unemployment allowances.

(7) In the event of successive disqualifications under (1), (2), (3), and (5), above, applicants may be disqualified for additional periods not exceeding eight weeks, under the latest change in the law.

(8) A person terminated from military service is not disqualified for any of the foregoing reasons in (1), (2), (3), (4), and (5), above, if such acts were committed prior to his entry into military service.

Where to Apply for Benefits.--Register at the local United States Employment Office immediately upon becoming unemployed.

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